

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JESSIE TOMPKINS, SR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06CV325-WKW
)	[WO]
JUDGE JOHN JONES, et al.,)	
)	
Defendants.)	

ORDER

On 30 May 2006, the City of Montgomery ["the City"] filed a Motion to Dismiss the plaintiff's claims against the City (Doc. # 37), pursuant to Rule 12 (b)(6) of the *Fed.R.Civ.Pro.* Accordingly, it is ORDERED as follows:

1. On or before 16 June 2006, the City shall file its brief along with its legal documents and materials in support of the motion. For example, the City has alleged that "Plaintiff's home nor any residence that the Plaintiff was owner of record have been demolished by the City of Montgomery". To the extent that the City has legal documents that support its allegations and its argument for dismissal of Tompkins' claims against it, it shall file those documents, certified to reflect their authenticity.
2. On or before 7 July 2006, the plaintiff shall respond to the motion by filing his brief and any legal documents and materials in support of his response.
3. Thereafter, the motion to dismiss will be deemed submitted on the motion, the

pleadings, the response, and the record in this case.

The plaintiff is ADVISED that, at this stage of the litigation, the court's task is to determine whether, as a matter of law, he should be permitted to proceed. Thus, the court will not consider or evaluate evidence, nor will the court make credibility findings in case of factual disputes.

The plaintiff is also ADVISED that his failure to respond to the court's order will lead to a Recommendation that his complaint be DISMISSED.

DONE this 5th day of June, 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE